



# T H E




# PROGRAM

## INSIGHTS and UPDATES

*This publication is intended to provide a simplified explanation of the Individual Fishing Quota program as adopted by the Secretary of Commerce. Although it has been carefully reviewed for accuracy it is not intended to be a legal guide to the program. Those seeking legal guidance should consult the Federal Register, Vol. 58, pg. 59375, published on November 9, 1993.*

*For more information call the  
National Marine Fisheries Service  
Restricted Access Management  
Division at 1-800-304-4846*

*February, 1994*



## THE NUTS & BOLTS of the NEW SYSTEM

The North Pacific Fishery Management Council (Council) designed it, the Secretary of Commerce approved it, and on November 9, 1993, the Federal Register put it in print and it became law. For the Pacific halibut and sablefish (blackcod) fisheries of Alaska, the management plan for the future is Individual Fishing Quotas, or IFQs. This decision was by no means an easy one. The IFQ program was approved only after some tough years of debate and discussion between the Council, concerned fishermen and women, and other industry representatives. With access to these multi-million dollar fisheries at stake, everybody involved had a strong opinion. The Council provided a place where those opinions could be expressed, and the arguments were forcefully presented.

Now that it's law, it's time to work together. To do that we must understand the system, answer the questions and move ahead. This booklet will help

you understand the basic workings of IFQs. We'll walk you through the application process, talk about who's eligible and who isn't, and lay out the path to follow if you want to appeal.

We'll explain how to

receive quota shares by transfer and the restrictions which apply. We'll also explain why the restrictions are in place and why the Council, the National Marine Fisheries Service (NMFS), and the Secretary felt that they were necessary. If you have any

questions that you feel aren't answered clearly here, please give the NMFS Restricted Access Management (RAM) Division a call at 1-800-304-4846. We'll be happy to help.

The Council began considering options other than traditional open access management in the late 1970's. They asked for ideas from the public, and ultimately examined limiting license numbers, using annual fishing allotments, and distributing quota shares (QS) under an IFQ plan. They also considered working within the existing management system. They looked at solving some of the problems without restricting access, simply by tightening or adjusting regulations. But a clear message was coming from the fishing industry. It came from processors, marketing specialists, from fishermen and women, and from management as well. They all described fishing seasons being shortened into "derby" fisheries, where fishermen's safety, care of the gear, and even the quality of the product suffered. The short seasons contributed to bycatch loss and caused targeted fish to be handled poorly. Open access management allowed the fleet to overcapitalize and to grow larger than was economically sensible or easily manageable. Fishermen were spending more money to catch fish which were worth less, and fisheries were becoming increasingly difficult to control. The demand for change became overwhelming: **something** had to be done.

It's never easy to turn from an era of open access, where everyone has an equal opportunity to fish or hunt or use the public resource, to more restrictive policies. It's been called the "tragedy of the commons", when the

limit of the resource at last begins to be reached. Cowboys faced it when the open range of the Wild West was fenced. And now, for the groundfish fishermen, we have IFQs.

## HOW DOES THE SYSTEM WORK?

### HOW DOES IT EFFECT YOU?

Under this system, if you qualify, you will be awarded quota shares for halibut or sablefish (or both species), based upon your experience in the fishery. If you do not receive an initial quota share allocation, or if you do not receive quota shares by transfer in the future, you will not be able to participate in the fishery. The quota share is a permit, which awards you the privilege to fish the common property resource.

By a formula which will be explained further, your quota shares will determine your Individual Fishing Quota, or IFQ, which is the amount of halibut or sablefish that you are entitled to catch each year. You will be able to catch this quota at any time during the appropriate open season. Since concerns about overharvesting should lessen as the IFQ program gets underway, it's anticipated that seasons will lengthen. They may be seven to nine months long as opposed to a matter of weeks or hours. More care can be given to the gear, to handling the fish and to marketing them at the best price. There will be less pressure to fish in rough weather and safety should improve.

If you don't qualify for an initial quota share allocation, you may buy

quota shares if you meet some basic requirements. If you have at least 150 days experience working as part of the harvesting crew in any U.S. fishery, you'll probably qualify as an IFQ crewmember and be allowed to receive quota shares by transfer. "Harvesting", in this case, means work directly related to catching or retaining fish. If, for example, your experience was only as a cook or an engineer, you would not be eligible. On the other hand, if you seined salmon in Prince William Sound or drift gillnetted Bristol Bay for the necessary 150 days, you would.

The IFQ program was designed to retain the character and size of the fishing fleet as much as possible. For this reason the system includes restrictions designed to prevent too many quota shares from falling into too few hands (ownership caps) or from being fished on too few vessels (vessel use caps). Other restrictions will prevent the fishery from being dominated by large boats or by any particular vessel class. This is the system of assigning quota shares to vessel categories and then restricting transfers between different categories. We'll look at all of this in greater detail later on.

## IFQ'S AROUND THE WORLD

Similar changes have already come to other countries and other fishermen, though none of the programs across the world oceans approaches the magnitude of the North Pacific IFQ plan. New Zealand has more than 1.5 million square nautical miles in the Exclusive Economic Zone (EEZ) off her shores. In 1983 a non-transferable quota system was in place over the country's deep-water fisheries, and then in 1986 a quota management system was adopted, with shares freely transferable. Thirty species of commercial fish are covered, and the Government has suggested extending the concept to New Zealand's recreational fisheries.

Some consolidation and downsizing of the fleet was necessary, as several of the fish stocks were in trouble, and safe-guards to prevent over-consolidation were less stringent than those outlined by the Council for Alaska's IFQ program. Criticism has also been levelled that one or two corporations have gained control of much of New Zealand's fisheries, and the Council considered this carefully when drafting ownership caps and restrictions on quota share transfers.

Canada brought halibut and sablefish under Individual Vessel Quota (IVQ) management in 1991, and did the same for rockfish a year later. It seems to be working rather well off British Columbia's coast, with high-grading less of a problem than anticipated, prices climbing higher for halibut and a solid effort at cooperation between fishermen, processors and the Department of Fisheries and Oceans.

Iceland was an early entrant into IVQ management, placing cod under this system in 1976. Since that time, in testimony to the success of the program, almost all of Iceland's groundfish are under IFQs.

Here in our own country Atlantic fishermen have seen Individual Transferable Quota (ITQ) management over wreckfish and surf clams. Participation in the wreckfish fishery had burgeoned from two boats in 1987 to 40 vessels three years later, and had become a classically dangerous derby fishery. The South

Atlantic Fishery Management Council, southern sister to the Council overseeing the North Pacific, responded to fishermen's pleas with the ITQ program. ITQ management over surf clams was set in motion in 1991. Reports from these fisheries are largely positive, and this innovative management concept appears to be a change for the better. Our IFQ program addresses all of the problems the Council identified with the halibut and sablefish fisheries, and leaves a lot of room to respond to future development in the fisheries. As fishermen, processors and others within the industry experience just what an IFQ plan will mean, and how it will affect your fishery, you can give valuable suggestions for making IFQs work smoothly. And we have the experience of other limited access fisheries to use as a guide. This will help us avoid the problems that sometime come with limiting access to a resource.

## WHEN WILL IT START? WHO IS AFFECTED?

Beginning next spring, the fixed gear fisheries for Pacific halibut and sablefish in and off Alaska will be managed under the IFQ plan. Fixed gear means hook and line gear of all types: longlines, handlines, jigs and troll gear, as well as pot gear for sablefish. Pot gear will be legal gear for harvesting sablefish under the IFQ plan, but **not** in the Gulf of Alaska. The fish you caught with pot gear, even in the Gulf, however, can be used to determine an initial quota share allocation. Sablefish harvested legally

with trawl gear are not part of the IFQ program. Sablefish fisheries regulated by the State of Alaska within State waters, (those in Prince William Sound, Chatham Strait and Clarence Strait), are not considered under this federal IFQ program.

The application period for quota shares began on January 17th, 1994. You have six months to apply for an initial quota share allocation. Applications must reach the

NMFS/RAM Division Juneau office by the close of business on July 15th, 1994. The NMFS/RAM Division has already mailed out almost 8,000 Requests for Applications to those who might be eligible to apply for quota shares. Only those who return a completed Request for Application will

receive the application package. Before we go further with the application procedure, let's define some terms and look at just how the system will work.

## DEFINITIONS: TERMS WE'LL BE USING - AND WHAT THEY MEAN

**Qualifying years** - You must have owned or leased a vessel on which fixed gear landings of sablefish or halibut were made during the qualifying years 1988, 1989, or 1990 to qualify for an initial quota share allocation. These fish must have been legally caught in IFQ regulatory areas.

**Base years** - These are the years used to determine the amount of your quota share. For halibut they are the best five of seven years; 1984-1990. For sablefish they are the best five of six years; 1985-1990.

**Total Allowable Catch or TAC** - Each year the Secretary of Commerce, in consultation with the Council, determines the sablefish TAC for the different management areas. The International Pacific Halibut Commission (IPHC) annually sets the figures for the halibut harvest in its management zones. Regulatory areas for halibut and sablefish are different and should not be confused.

**Quota Share or QS** - This means a permit, the amount of which is used as a basis for the annual calculation of your IFQ. The size of this permit is determined by landings in the base

## An Example of Figuring Your Quota Share

	1984	1985	1986	1987	1988	1989	1990
	Halibut Landings						
0 lbs.	5,000 lbs.	5,000 lbs.	3,000 lbs.	8,000 lbs.	6,000 lbs.	6,000 lbs.	
	Sablefish Landings						
not cable	2,000 lbs.	4,000 lbs.	6,000 lbs.	3,000 lbs.	4,000 lbs.	6,000 lbs.	

### Halibut

2,000 -(drop)  
5,000  
5,000  
3,000 -(drop)  
8,000  
6,000  
6,000

30,000 lbs.

**Qualifying Poundage**  
(Best five of seven yrs. total)

### Sablefish

2,000 -(drop)  
4,000  
6,000  
3,000  
4,000  
6,000

23,000 lbs.

**Qualifying Poundage**  
(Best five of six yrs total)

Initial quota share will be slightly smaller after CDQ adjustment, we'll decrease the amount by 3.5 % as an example

30,000 lbs. → 28,950 QS

23,000 lbs. → 22,195 QS

years. Your initial adjusted quota share is the sum of your best five year's landings. The adjustment is a slight decrease because some fish will be allocated to the CDQ program (which we'll explain shortly).

QS are calculated independently for each IFQ regulatory area and vessel class. You would not add your best five years' catch over all areas to come up with qualifying poundage. It is reckoned area by area.

Quota shares allocated or permits issued do not represent an absolute right to the resource. They are, rather, a harvesting privilege which may be revoked or amended subject to the Magnuson Act or other applicable laws.

**Quota Share Pool or QSP** - This is the total of all quota shares for each respective IFQ regulatory area. Again, regulatory areas for halibut are distinct from sablefish regulatory areas.

**Individual Fishing Quota or IFQ** - This is the amount of fish that you are allowed to harvest each year. It is calculated annually by taking the quota shares you hold and dividing them by the total quota share pool. The resulting figure is the percentage of the harvestable fish to which you have harvesting privileges for that IFQ regulatory area and vessel class. This percentage is then multiplied by the TAC, as determined annually by the Secretary (for sablefish) or the IPHC (for halibut). Mathematically it looks like this:

$$(QS/QSP) \times TAC = IFQ$$

The Secretary and the IPHC can change the TAC in response to changes in the fish stocks, so your IFQ will vary from year to year. The QSP can also change as appeals are decided and additional quota shares issued, or as quota

shares are revoked due to violations.

### Community Development Quota or CDQ -

This is a program which compensates the communities of western Alaska which are directly affected by the assignment of fishing privileges. Some of these communities

have largely been bypassed as the fisheries developed in their own waters, and the Council has decided to take some quota shares from each regulatory area in the Bering Sea/Aleutian Island (BS/AI) region and give them to the appropriate villages. This will **only** happen in the BS/AI region.

To make it fair for non-CDQ BS/AI region fishermen who fished in the CDQ areas and whose IFQ will be reduced by the CDQ allocation, the Council will award you small amounts of quota shares from the other areas, in the same proportion as the amount allocated to the CDQ program. This is why your initial quota shares are a little bit smaller than your qualifying poundage. This adjustment will only happen once as part of your initial allocation of quota shares.

### Vessel length overall or LOA -

This is the horizontal distance, rounded to

the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments.

**IFQ crewmember** - This means any individual

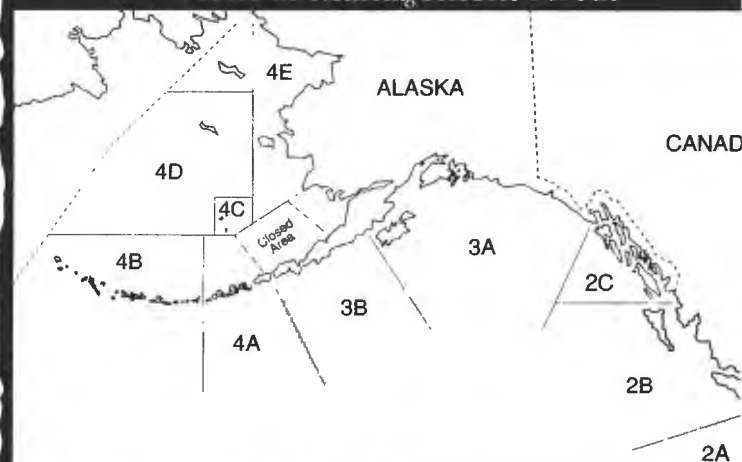
## Sample IFQ Calculation

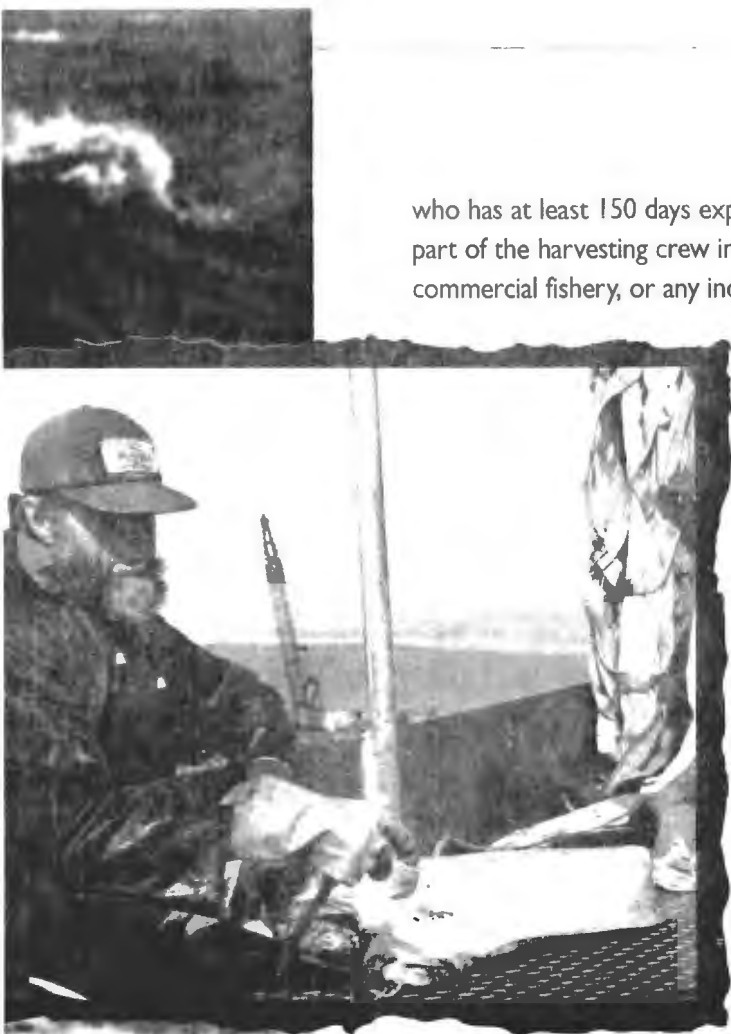
$$(QS/QSP) \times TAC = IFQ$$

Using our halibut landings as an example - we have 30,000 lbs. (less 3.5% for CDQ adjustment) to give us 28,950 for our QS. Our QSP is 60,000,000 which is the rounded total quota shares for area 2C, and, in our example the TAC is 12,000,000 for 2C. Putting that in the equation we have an IFQ of 5,790 pounds.

$$(28,950 / 60,000,000) \times 12,000,000 = 5,790$$

## Halibut Management Areas





who has at least 150 days experience working as part of the harvesting crew in any United States commercial fishery, or any individual who receives

an initial allocation of quota shares. For purposes of this definition, "harvesting" means work that is directly related to the catching and retaining of fish. Work in support of harvesting but not directly involved with harvesting is not considered harvesting crew work. Only those who receive quota shares by initial issuance, or IFQ crewmembers, may receive quota shares, and the IFQ which

results from it, by transfer.

## HOW TO APPLY

First let's see who is eligible. To be eligible for an initial quota share allocation you must:

- be a U.S. citizen at the time you apply for quota share. A corporation or partnership qualifies as a citizen if it would have qualified to document a fishing vessel as a vessel of the United States during the QS qualifying years of 1988, 1989 and 1990.
- have owned or leased a vessel that made legal and verifiable landings of halibut or sablefish in the IFQ regulatory areas during 1988, 1989 or 1990.
- apply for your allocation.

Applicants may be individuals, corporations, partnerships, associations, or other entities (or their successors in interest). A former partner of a dissolved partnership or a former shareholder of a dissolved corporation may apply for quota shares in

proportion to his or her interest in the dissolved corporation, partnership or business. Estates of deceased fishermen are successors in interest and may also apply.

As mentioned earlier, the NMFS/RAM Division has sent out close to 8,000 Request for Application packets to those who are likely to be eligible. If you have not received a packet and still wish to apply you must first obtain one and return the Request for Application forms to the NMFS/RAM Division. Packets are available throughout Alaska and Seattle at NMFS offices, the offices of the Alaska Department of Fish and Game, Native Corporations and fishing organizations.

When the NMFS/RAM Division receives your completed and signed Request for Application forms, they will prepare your personal application. This will be based on state and federal landings and catch data and documentation of vessel and permit ownership. This information, compiled by NMFS, is called the **NMFS official IFQ record**. The NMFS official IFQ record is important because it is the first indicator of whether you are qualified for an initial quota share allocation. It is also the basis from which the amount of your quota share is calculated.

When your personal application is ready it will be sent to you. If you agree with the NMFS official IFQ record, you need only sign and return it to the NMFS/RAM Division by July 15th, 1994. If you disagree with any information, such as landings, areas, vessel classes, or with the years listed for recorded landings, or with any of the data printed on the application forms, you should correct the informa-

tion, provide documents and notarized affidavits supporting your position, and return it. If NMFS/RAM is convinced by these documents, then the official IFQ record may be changed and your application will continue to be processed. If not, you will be notified and given 90 days to provide additional information.

If, after a review of this new information, NMFS/RAM personnel are still unconvinced, then your application will be denied, and you will have the opportunity to appeal the disputed portion (under a process which will be explained later). Now let's discuss three issues which may arise as you complete the forms necessary to apply for quota shares. These are leasing, confidentiality and evidence.

## LEASING

Let's suppose the official IFQ record held by the NMFS/RAM Division shows that you were the permit holder, and that you made legal landings of Pacific halibut and/or sablefish during the qualifying years for the IFQ program (1988, 1989, and/or 1990). However, since the records do not show that you were the owner of the vessel on which qualifying landings were made, it is presumed that you are not eligible for initial issuance of quota share.

If you were not the vessel owner, but if you believe that you held a legitimate lease on the vessel you operated during one or more of the qualifying years, you may apply for quota share as a lessee. If you and the vessel owner agree that a lease was in effect, you must supply either: a) a copy of the lease document itself showing that you


were the leaseholder during the time period(s) in which you are claiming credit; or, b) a statement, signed by both you and the vessel owner, attesting to the fact that a lease was in effect during the time period(s) in which you are claiming credit. The statement may be in any form, but both signatures must be notarized.

If you do not have a copy of the lease document, and if you cannot submit a notarized statement signed by both you and the vessel owner that attests to the existence of a lease during the qualifying years for which credit is claimed, NMFS/RAM will presume that you were not a lease-holder. You may rebut (overcome) that presumption if you submit evidence in the form of authentic documents to prove that you, not the vessel owner, shouldered the financial burdens and risks of the fishing operation during the time period(s) for which you are claiming credit. Examples of such documents may include:

- the receipt(s) for purchase of the license(s) used aboard vessel during the time period(s) for which you are claiming credit;
- tax returns which show that you claimed a business deduction for vessel lease expenses during the time period(s) for which you are claiming credit;
- tax returns or other documents which show that you paid the crew expenses during the time period(s) for which you are claiming credit; and/or,
- other authentic and contemporary documents which demonstrate the nature of your investment in the fishing operation during the time period(s) for which you are claiming credit.


For any of these documents to be considered, you **must** provide a notarized statement, attesting to the authenticity of the documents and explaining,





in detail, the business relationship between you and the vessel owner during the time period(s) for which you are claiming credit as a lease-holder.

After receipt of this information, the NMFS/RAM



Division will assess it and make an initial administrative determination on your eligibility for quota share. We may return the application to you and request that you submit additional information to support your claims. If the information you supply is not sufficient to establish your claim that you were a lease-holder during the time period(s) claimed, your application will be denied. In that event, you will be allowed to appeal that determination.

Please note that, if the owner of the vessel which you claim to have leased also applies for quota share credit during the time period(s) for which you are claiming credit, both applications will be denied. In that case, either or both of you may file an appeal. Since the appeals process will surely be time-consuming, both you and the vessel owner could experience delays in receiving the quota share (and the resulting IFQ, which will only be calculated and issued on an annual basis) to which you believe you are entitled.

Therefore, it is clearly in your interest to resolve all disputed facts with the vessel owner BEFORE submitting your application for quota share!

### — CONFIDENTIALITY —

Under state and federal confidentiality laws, NMFS/RAM may not release catch data or landings data to anyone other than the person who signed the fish ticket. Therefore, even though the

NMFS/RAM Division wants to provide you with a record of your landings during the relevant years, they cannot do so. To address this problem, the Division began the pre-application process. On the Request for Application forms which you received earlier, you are asked to sign a waiver of the confidentiality of your data. This waiver allows the Division to use your confidential fish ticket information to properly allocate quota shares to eligible applicants. Since no waiver means no access to the necessary information, every applicant is required to sign the Request for Application form and the waiver which it contains. Once that waiver has been received NMFS/RAM will preprint landings information on your application. The information will be presented as a summary, by year and by total pounds, of the total landings made on your vessel during the relevant years. If someone other than you made those deliveries, a waiver from the person who made the deliveries must be received (unless four or more persons made the deliveries, in which case the data can be summarized) before the summary can be printed and released. This is important if you want to examine the information used by NMFS/RAM to determine your total qualifying pounds. Also, even if you own the vessel and are otherwise qualified, if the total quota share allocation cannot be revealed for lack of waivers, you may not receive the quota shares to which you are entitled. To be on the safe side, it's a good idea to get waivers signed from every skipper who fished on your boat and signed fish tickets during the quota share base years (1984-1990) and to submit those waivers with your applications.

## — EVIDENCE —

If you believe that the NMFS official IFQ record does not fairly reflect your situation and that you would therefore not receive the quota share which you think you deserve, you will have an opportunity to present evidence to support your claim.

"Evidence" is a general term which applies to any and all documents or statements which you provide in support of your application. Documents might include pilothouse logs, original copies of fish tickets, vessel purchase documents, tax returns, cancelled checks, or anything else which you think will support your claim. Written statements, in the form of affidavits (sworn and notarized statements attesting to a set of facts) may also serve as evidence. The NMFS/RAM staff will require that you submit an affidavit with all documentary evidence. The affidavit should state what it is you're trying to prove, what the documents mean, where they came from, and any other facts which you wish to present. And one last word about evidence - **tell the truth!** Fraud is a criminal offense and anyone suspected of knowingly submitting false information on their application will be investigated and, if the facts warrant it, prosecuted.

### PROGRAM RESTRICTIONS

One of the goals of the Council in adopting the IFQ program was to preserve, as much as possible, the nature and size of the fleet. The Council kept this in mind when they designed the

quota share, ownership and transfer restrictions. These restrictions are designed to prevent excessive consolidation of the fleet and to prevent the fisheries from being dominated by one vessel size. Even with these restrictions in place, the Council expects that the total number of vessels involved in the halibut and sablefish fisheries will decline.

With quota shares being assigned to vessel categories and regulatory areas, the current make-up of the fleet can then be preserved by restricting transfers of quota shares among categories and areas. For instance, the quota share issued in vessel Category B, area 2C, will remain in vessel Category B, area 2C, no matter how many times it may be transferred. As a result, the same percentage of quota share will remain in the categories in which they were originally awarded.

## VESSEL CLASSES — AND IFQ — REGULATORY AREAS

Quota shares are issued specifically to a vessel class and to an IFQ regulatory area. With six areas and three vessel categories for sablefish, and eight areas and four vessel categories for halibut, this means that 50 different "types" of quota share will be issued!

Quota shares for halibut are independent of quota shares for sablefish. Quota share allocations will be assigned to a specific vessel category, based on the length overall (as opposed to register length). Vessel categories are described by both length overall and the kind of operation.

- Category A - a freezer vessel of any length;
- Category B - a catcher vessel greater than 60 feet in length overall;
- Category C - a catcher vessel less than or equal to 60 feet in length overall for sablefish, or a catcher vessel greater than 35 feet but less than or equal to 60 feet in length overall for halibut; and
- Category D - a catcher vessel less than or

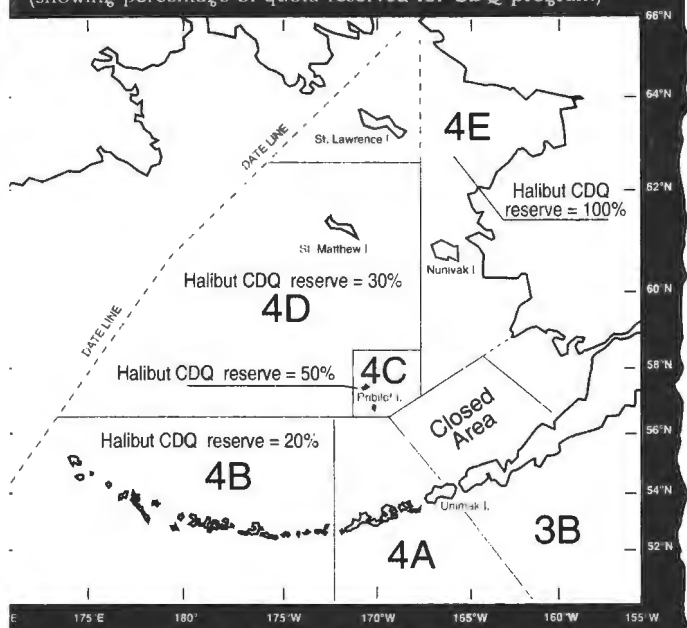
### Vessel Categories

Vessel length	Freezer Vessel (any length)	Catcher Vessel	
		Sablefish	Halibut
Over 60'	A	B	B
35' to 60'		C	C
0 to 35'			D

**Freezer Vessel - Any vessel used to process its catch during any fishing trip**

## Halibut Management Areas

(showing percentage of quota reserved for CDQ program)



equal to 35 feet in length overall for halibut.

To determine the category to which quota share will be assigned, NMFS/RAM will look at the vessel you used in the halibut or sablefish fisheries. We will look at the last vessel which you fished during the years 1988, 1989, 1990 or 1991 up to September 25th. If, during the most recent year, you fished more than one vessel, and those

vessels fall into different categories, the quota share will be assigned to each vessel category in proportion to the landings made on each vessel. **It is important to take note of the higher priority placed upon groundfish in these calculations.** Groundfish records are examined first. If the most recent year of your fishing participation involved groundfish, whether it was sablefish or even rockfish, that will take precedence in the assignment to a ves-

year fished (1988, 1989, 1990 or 1991 up to September 25th) the quota shares issued will be freezer/longliner shares, or Category A.

This is the basic outline for vessel categories and how they're determined. **This is a rather complicated part of the regulations. For further clarification on any point here, call 1-800-304-4846.**

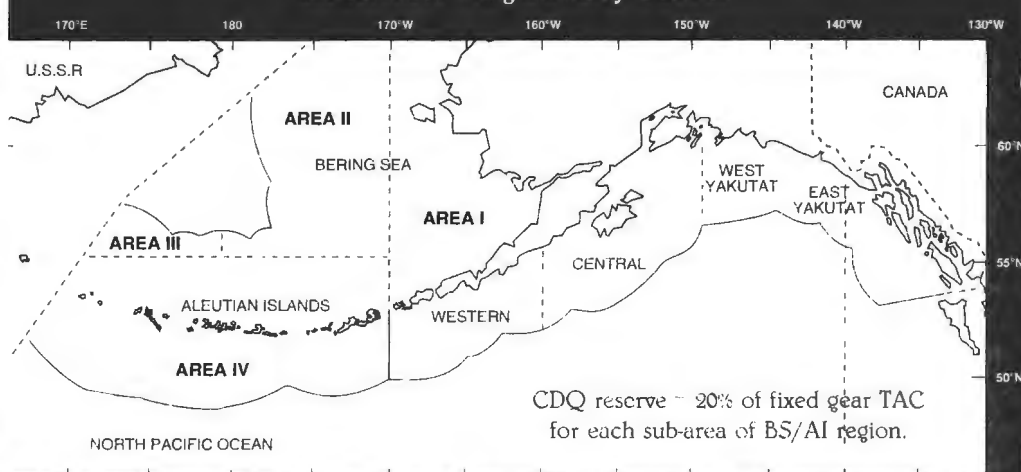
## WHO MAY FISH THE IFQ's?

### TRANSFER AND — OWNER-ON-BOARD — RESTRICTIONS

As noted earlier, the Council and the Secretary have taken steps to ensure that the current make-up of the fleet is not unduly disrupted by the IFQ program, and that most vessels in the fishery are operated by their owners. To maintain this predominantly "owner-operated" nature of the fishery, the program provides:

- \* Only quota share holders who receive their quota upon initial issuance may hire masters to fish the resulting IFQ. In Southeast Alaska (halibut area 2C and the sablefish area east of 140 degrees west longitude), only corporations or partnerships may hire masters.
- \* When quota share is transferred, it may only be transferred to an entity that received an initial award of quota share or to an individual who is a qualified IFQ crewmember. If quota share is transferred to an individual, that individual must be on board while the IFQ is being fished.

## Sablefish Regulatory Areas



sel category over halibut. If **no** groundfish were harvested, then halibut landings will be considered.

If your vessel froze or processed **any** fish, whether halibut or sablefish, during the most recent

\* Though an individual who receives quota share by initial issuance may incorporate his or her business and transfer the quota share to that corporation, the requirement in Southeast Alaska, area 2C and east of 140 degrees west longitude, that the owner is on board while the IFQ is being fished, remains.

\* Quota share may be pledged as collateral. In other words, it can be financed by an entity other than the transferor or the transferee, and it can be repossessed. However, if it is repossessed, the financial institution may not receive IFQ and fish it; that institution may only sell the quota share to a qualified IFQ crewmember or to a person who received quota share upon initial issuance.

### — OWNERSHIP AND — VESSEL HARVEST CAPS

• Unless it was part of an initial quota share allocation, no one may own or use sablefish quota share greater than 1% of the combined sablefish quota share for the Gulf of Alaska and the BS/AI region. A similar limit is placed on the amount of sablefish which any one vessel may harvest, except: no more than 1% of the total sablefish quota share for the area east of 140 degrees west longitude may be owned or used by one individual or harvested by one vessel, unless the amount in excess of 1% was received in the initial allocation of quota share.

• For halibut, no more than 1/2% of the total halibut quota share for combined areas 2C, 3A and B may be owned or harvested unless the amount was given initially. The same 1/2% limit applies to combined areas 4A,B,C,D and E. For vessels, no vessel may be

used, during any fishing year, to harvest more than 1% of the halibut catch limit for this area. To reiterate, no more than 1% of the total quota share for area 2C may be owned or taken by one individual or harvested by one vessel.

### — RECOMMENDED — BLOCK RESTRICTIONS

In addition to these limits, the Council has recommended block restrictions to further guard against excessive consolidation of quota shares. At this point the regulations for block restrictions are still being developed. They will be put before the public for comment, and then submitted to the Secretary for approval. At present, there are four basic elements of the block policy.

• All initial quota share allocations, for both halibut and sablefish, which would yield less than 20,000 lbs. of IFQ in 1994, would be placed permanently in a **block**. Blocks would not be divisible and could only be bought or transferred in their entirety.

• A **sweep-up provision** would allow very small blocks to be combined into a fishable amount. For halibut, blocks with quota share which would yield less than 1,000 lbs. could be combined if the sum total would not amount to quota share which would be worth more than 1,000 lbs. of IFQ in 1994. The same provisions would apply for sablefish, except that the poundage cap is set at 3,000 lbs.

• Ownership restrictions would apply to both halibut and sablefish. You could hold up to two blocks of quota shares per IFQ regulatory area, if you do not hold any unblocked shares in that area as well. If you hold unblocked quota shares for one area, you may hold, in addition, only one block of quota shares for that area. If you qualify and want to buy unblocked quota shares for a particular area, you could do so. The only limits imposed would be those spelled out in the vessel use and cap restrictions (the 1/2% and

Ownership Caps

	Area	Cap
Halibut	2C	1%
	2C, 3A, 3B	1/2%
	4A, B, C, D, E	1/2%
Sablefish	Gulf of Alaska and BS/AI Region	1%
	East of 140°W	1%



you saw fit.

1% caps for the different areas).

- Initial quota share allocations which would yield greater than 20,000 lbs. of IFQ in 1994 would be **unblocked** quota share, and could be bought or transferred in any amount. This quota share could be divided up piecemeal as

## THE APPEALS PROCESS

Now that we have looked at the IFQ program and the restrictions which accompany it, let's explain how the appeals process works. Appeals can be made for any number of reasons. Let's suppose that your records don't agree with the official IFQ record, or you feel that you're eligible for an initial allocation when NMFS does not. You may want to transfer blocks of quota shares and be denied the chance to do so, or you may feel that you deserve more quota shares than were initially awarded. Whatever the dispute, once the NMFS/RAM staff has made a final determination, there will be an opportunity to appeal. Let's look at the mechanics of the appeals process.

If your application has been denied, or (what is more likely) an amount of fish which you claim to have legally landed is in dispute, you will be given 90

days to file a written appeal. In your appeal you must spell out in detail why you believe the NMFS decision was in error, and what additional documents - such as skipper's logs or affidavits from crew - you can provide as further evidence.

Your appeal will be reviewed by a NMFS appellate officer within the RAM Division. The officer may grant your appeal, deny it, or order an administrative hearing. Ultimately, the appellate officer will prepare a written decision which will be sent to you.

If your appeal is still denied and you wish to appeal further, you have 45 days to file an appeal to the NMFS Regional Director. The Regional Director may also order a review of the appellate officer's decision, if he feels there are reasons to do so. After his review the Regional Director may uphold the decision, reverse it, modify it, or ask the appellate officer to consider the case once more. If after all this you are still in disagreement with the decision, you may appeal to the Federal District Court.

One important way in which the IFQ program is different from the State of Alaska's Limited Entry program, is that no "interim quota share" will be issued while disputes are being settled through the appeals process. If you feel that you are due 20,000 lbs. of quota shares and the NMFS/RAM Division agrees with a lesser amount, and issues you 15,000 lbs., you may harvest only the IFQ amount based on a 15,000 lbs. quota share, until the remaining 5,000 lbs. dispute is resolved.

The system has been set up to provide ample opportunities for everyone

to be heard and to present their case. The many steps in the process are necessary to make sure that fishing privileges are extended to those who deserve them and that every applicant receives "due process".

## USE AND ISSUANCE OF IFQS

The plan is for skippers to be pulling away from the docks by next spring, with IFQ cards hanging in the wheelhouse. These cards will be issued early in 1995. As we've mentioned, the application process has already been set in motion, and in the following months applications will be examined, appeals determined, quota shares issued and transferred, 1995 TACs established, and finally, IFQ cards issued.

These cards will identify the person holding the permit and the assigned vessel and area category. They will be much like a credit card. We'll call them debit-cards. When you make a delivery, you will give this card to a representative of the registered buyer and (s)he will pass it through a machine similar to one used with credit cards. The poundage delivered will be entered and a receipt printed with the date and the pounds landed. Just like a credit card, if you have more quota share left, you will be advised of your "credit balance", or the remaining poundage which you may harvest.

## BYCATCH, LANDINGS AND DELIVERIES

Enforcement of fisheries regulations is by its nature expensive and difficult.

The IFQ program will give you as fishermen a very personal stake in the health of the resource. If the sablefish stocks go down sharply, your IFQ will drop just as sharply, because the total allowable catch, or TAC, will have to fall.

Some rules have been added to help you fish cleanly. Pacific cod and rockfish must be kept on board if they are taken as bycatch while fishing under the IFQ program, since they are not likely to survive if thrown overboard. As long as you have not harvested your IFQ amount, you cannot discard any legal-size halibut or sablefish. This practice of high-grading catch is wasteful, and in the long run is not in your best interest. Any activity which will ultimately harm the resource will degrade the value of your quota share and jeopardize future fisheries.

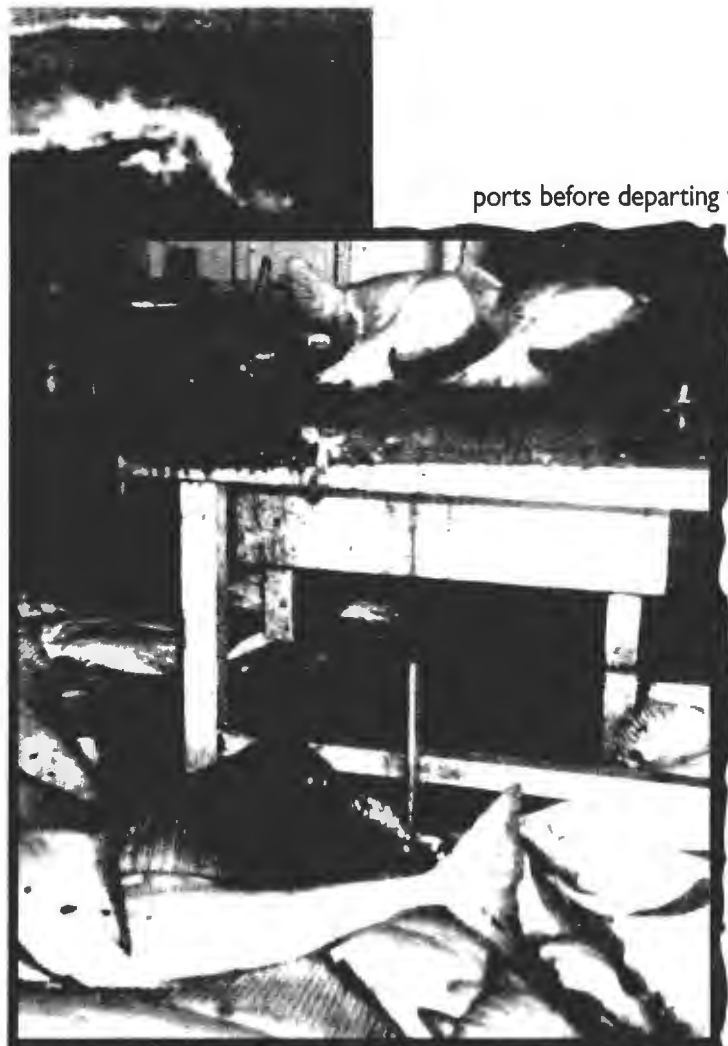
Some aspects of the hailing and landing requirements may be adjusted in the future. At present, landings may be made at **any** port. There has been some controversy and confusion over this, so it bears repeating; landings may be made at **any** port. The Secretary has designated 16 Alaskan towns and Bellingham, Washington, as **primary ports**. There may be a NMFS enforcement officer at each of these 17 ports to record IFQ landings. You must call in over the radio at least six hours before making port, and give an estimated time of arrival as well as estimated poundage aboard.

If you wish to deliver in a town which is not a primary port, you must still radio in six hours ahead of time, but you would then be free to deliver. Spot checks may take place in non-primary ports. For vessels leaving Alaska with IFQ product on board, clearance must be obtained at one of the primary

## Estimated Quota Share Pools

Species	Regulatory Areas							4E
	2C	3A	3B	4A	4B	4C	4D	
Halibut	57,575,000	175,411,000	50,180,000	13,107,000	8,262,000	3,743,000	4,258,000	165,000
Sablefish	East Yakutat	West Yakutat	Central Gulf of Alaska	Western Gulf	Aleutian Islands	Bering Sea		
	59,944,000	48,039,000	100,932,000	31,299,000	27,997,000	14,742,000		

These are preliminary estimates devised by Council staff. It is expected that the actual Quota Share Pool will likely be less, depending upon the number of applicants.



ports before departing waters in or adjacent to the State of Alaska. For vessels obtaining clearance at a port in Washington or another state, the vessel must report to NMFS, Alaska Region, the estimated weight of the IFQ halibut and/or IFQ sablefish onboard and the intended date, time and location of delivery. Such reports must be submitted to NMFS, Alaska Region, prior to departing waters in or adjacent to the State of Alaska, and in the manner prescribed by the registered buyer permit.

All fish harvested under the IFQ program must be sold to a registered buyer. This helps to track how much fish is caught and where it's going. You may bring your catch to port and sell it dockside to the public if **you** hold a buyer's permit, and follow all the reporting rules.

### — REACHING THE LIMITS —

While setting catch limits is easy to do on paper, it's more realistic to acknowledge that you might aim for your IFQ limit and yet come up a little bit short or a little bit over. If you take too much, this is called **overage**, and a downward adjustment will be made in the following year to your IFQ amount. **It is your responsibility to avoid overages greater than 5% of your IFQ amount.** Beyond that, you will have committed a violation and invited the attention of the enforcement authorities. A harvested amount under the IFQ limit, called an **underage**, is not reallocated in subsequent years.

## IFQS UNDERWAY

We've looked at the conditions which have been built into the IFQ program to ensure that in the future the fleet remains similar to what it is today. These ideas - the ownership caps, the harvest limits for vessels, the proposed block restrictions - have all come from looking at previous IFQ programs and learning from their experiences.

The Tlingit and Haida people of Southeast Alaska evolved a culture which let different clans own the fishing rights to particular streams or rivers. They defused the "tragedy of the commons" by this system of ownership. Claims to streams or particular localities on a river were widely recognized and respected. Protection of the resource was a high priority. If they caught too many fish, or abused the stream itself - they might starve.

We've come a long way from the days when our fish resources were harvested only for subsistence. Our methods for catching fish are now highly efficient and make use of 20th century technology. But as we've learned in so many ways over the last few decades, technological advances must be tempered with a real concern for the resource. The IFQ program does this. It taps the wisdom of an earlier people. Hard work, flexibility and cooperation are essential to make this program successful. We're confident that we can work together with fishermen and women to make this a reality.

*This publication is intended to provide a simplified explanation of the Individual Fishing Quota program as adopted by the Secretary of Commerce. Although it has been carefully reviewed for accuracy it is not intended to be a legal guide to the program. Those seeking legal guidance should consult the Federal Register, Vol. 58, pg. 59375, published on November 9, 1993.*

*For more information call or write the  
National Marine Fisheries Service  
(Restricted Access Management Division)*

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## ACRONYMS AND ABBREVIATIONS TO KNOW

CDQ	Community Development Quota
Council	North Pacific Fishery Management Council
EIS	Environmental Impact Statement
EEZ	Exclusive Economic Zone
IFQ	Individual Fishing Quota
IPHC	International Pacific Halibut Commission
ITQ	Individual Transferable Quota
IVQ	Individual Vessel Quota
LOA	Length overall
MFCMA	Magnuson Fishery Conservation and Management Act
NMFS	National Marine Fisheries Service
QS	Quota share
QSP	Quota share pool
RAM	Restricted Access Management
SEIS	Supplemental EIS
TAC	Total allowable catch



## TIMELINE

- \* **Late 1970's** - Council discusses limited entry options
- \* **1983** - Council recommends a moratorium on entry into the halibut fisheries
- \* **Mid-1980's** - Council considers limited entry for sablefish fisheries
- \* **1985** - Council asks industry to suggest management alternatives to open access
- \* **1987** - Council adopts a Statement of Commitment to "develop strategies for license limitation or the use of individual transferable quotas in the sablefish fixed gear fishery"
- \* **Early 1988** - Workshops are held to get industry and public input, in order to further develop feasible options to the derby fisheries
- \* **Mid-1988** - Council directs staff to develop five management options for the sablefish fixed gear fishery; 1) continued open access without modification, 2) modified open access, 3) IFQs, 4) license limitation, and 5) a combined license/quota/open access system
- \* **December 1988** - Council declares status quo unacceptable. Wants to look further into IFQs and license limitation
- \* **November 1989** - Council analyzes four options for future management of the sablefish fisheries off Alaska; 1) continued open access, 2) license limitation, 3) IFQs, and 4) a combination system called annual fishing allotments
- \* **April 1990** - Council weighs IFQs against open access management
- \* **May 1991** - The revised supplement to the Supplemental EIS for sablefish fishery management is released for public review. Also, an EIS is in preparation to look at IFQs for the halibut fisheries
- \* **September 1991** - Council provisionally recommends IFQs for **both** halibut and sablefish fisheries
- \* **Late 1991** - Draft Implementation Plan made available for review. A public hearing is held
- \* **December 8th, 1991** - Council recommends IFQ alternative for the halibut and sablefish fixed gear fisheries
- \* **January 1992** - Council calls for more study of potential effects of the IFQ plan
- \* **March 1992** - Supplemental analysis made available to the public
- \* **May 15th, 1992** - A 45 day public comment period announced
- \* **December 3rd, 1992** - Proposed rule is published. Subsequently receive 92 letters of comment
- \* **January 29th, 1993** - Secretary of Commerce approves the recommended IFQ program
- \* **November 9th, 1993** - Final rule is published in the Federal Register, Vol. 58, pg. 59375
- \* **January 17th, 1994** - Six month application period for initial quota share allocation opens

